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Attorneys for Plaintiff Tower Insurance Company of New York

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

TOWER INSURANCE COMPANY OF NEW YORK, a New York corporation,

Plaintiff,

v.

ROSE CITY AUTO GROUP, LLC, an Oregon limited liability company; **LEONARD M. SHILEY**, an individual; **TERESA BYLE**, an individual; **LOGAN DRIEDRIC**, an individual; **JOANNA STONER**, an individual; **STEPHEN STONER**, an individual; **LOVE MARTINO**, an individual; **ANAN SRIVILAI**, an individual; **CAMERON JOHNSON**, an individual; **JONATHAN GILBERT**, an individual; **TINA HARRAL**, an individual; **ROY WIEGAND**, an individual; **NATHAN LANGER**, an individual; **KAREN BERSINE**, an individual; **MELISSA STEVENS**, an individual; **TONY EDWARDS**, an individual; **DEBBIE RECKTANGLE**, an individual; **RODNEY JENKINS**, an individual; **STEPHEN SCHANTIN**, an individual; **BRITTANY LAWRENCE**, an individual; **MATT REED**, an individual; **SHERIAL REED**, an individual; **RACHEL SCHANTIN**, an individual; **EZEKIAL HUNT**, an individual; **BOBBY HEAGLE**, an individual; **LANEY BLANKENSHIP**, an individual; **LONNEY FRANCIS**, an individual; **OREGON COMMUNITY CREDIT UNION**, an Oregon non-profit entity; **TWINSTAR CREDIT UNION**,

Case No. 14-cv-00975-MO

**MOTION FOR ORDER OF
INTERPLEADER DISCHARGING
PLAINTIFF FROM FURTHER LIABILITY,
AND FOR AN AWARD OF PLAINTIFF'S
COSTS AND ATTORNEYS' FEES**

ORAL ARGUMENT REQUESTED

MOTION FOR ORDER OF INTERPLEADER
DISCHARGING PLAINTIFF FROM FURTHER LIABILITY,
AND FOR AN AWARD OF PLAINTIFF'S COSTS AND
ATTORNEYS' FEES - PAGE 1

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a Washington nonprofit corporation; **LOBEL FINANCIAL CORPORATION**, a California corporation; **THE EQUITABLE FINANCE COMPANY**, an Oregon corporation; **UNITUS COMMUNITY CREDIT UNION**, an Oregon non-profit entity; **WESTLAKE FLOORING COMPANY LLC, DBA WESTLAKE FLOORING SERVICES**, a California limited liability company; and **DOES 1-30**,

Defendants.

Pursuant to Local Rule 7-1, Plaintiff's attorney certifies that he made a good faith effort to confer with all parties through personal or telephone conferences to resolve the issues in this motion and have been unable to do so.¹

Plaintiff Tower Insurance Company of New York ("Tower") hereby moves the Court under Fed. R. Civ. P. 22, 28 U.S.C. §§ 1335 and 2361 for an order and judgment that: (1) directs Tower to deposit the penal sum of the Bond into the Court; (2) upon deposit of the Bond's penal sum into the Court, discharges Tower from further liability on its Bond, dismisses all pending claims against Tower related to the Bond with prejudice, and restrains all claimants from instituting or prosecuting any claim against Tower or the Bond in the future; and (3) awards Tower its costs and attorneys' fees incurred in this interpleader action. None of the defendants that Plaintiff was able to reach object to the relief sought herein.

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¹ Plaintiff's counsel does not have telephone numbers for all defendants. Plaintiff's counsel called those parties for which he has phone numbers. Counsel left detailed voice messages for several defendants who did not call back. All defendants who responded said they have no objection to this motion.

1591.001-01114961; 1

In support of this Motion, Tower relies upon its Memorandum in Support of Tower's Motion for Order of Interpleader, the pleadings and files herein, and the Declaration of Lawrence A. Wagner.

DATED this 10th day of October, 2014.

STEWART SOKOL & LARKIN LLC

By: s/ Lawrence A. Wagner
Lawrence A. Wagner, OSB #024770
lwagner@lawssl.com
*Attorneys for Plaintiff Tower Insurance
Company of New York*

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **MOTION FOR ORDER OF INTERPLEADER DISCHARGING PLAINTIFF FROM FURTHER LIABILITY, AND FOR AN AWARD OF PLAINTIFF'S COSTS AND ATTORNEYS' FEES** on:

Michelle M. Bertolino
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121 SW Morrison Street, Suite 600
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Attorneys for Defendant Unitus
Community Credit Union

Daniel L. Duyck
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Portland, Oregon 97201
Attorneys for Defendant Westlake Flooring
Company LLC dba Westlake Flooring
Services

by the following indicated method or methods:

✓ by **E-filing** a full, true and correct copy thereof to the attorney at the electronic mail address reflected on the court's CM/ECF system, on the date set forth below; and on

Teresa L. Byle
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The Equitable Finance Company
Attention: Karin Spruance
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Rose City Auto Group, LLC
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Lobel Financial Corporation
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CERTIFICATE OF SERVICE - 1

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by the following indicated method or methods:

- ✓ by **mailing** a full, true and correct copy thereof in a sealed, first-class postage-paid envelope, and addressed to the attorney as shown above, the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon on the date set forth below.

DATED this 10th day of October, 2014.

s/ Lawrence A. Wagner
Lawrence A. Wagner, OSB #024770
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Attorneys for Plaintiff Tower Insurance
Company of New York

CERTIFICATE OF SERVICE - 2

1591.001-01114961; 1

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